

REMARKS

This Amendment is in response to the January 8, 2008 Office Action ("Office Action").

Applicant would like to thank the Examiner for meeting with Applicant's representatives Shannon Mrksich and Justin Rand on March 6, 2008. The case was discussed, but no agreement was reached.

Claims 4-38 are hereby canceled. Claim 43 stands withdrawn. New claims 44-78 are presented. Support for the new claims can be found in claims 3 to 37 as originally filed, and in the specification at Tables 1 and 2.

Claim Rejections

In the present Office Action, claim 38 is rejected under 35 U.S.C. § 112, first paragraph. Claim 38 is hereby canceled, thereby rendering the rejection moot.

In addition, claims 4-38 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 6,190,675 to Beerse, et al. ("Beerse"). Moreover, claims 4-38 also stand rejected under 35 U.S.C. § 103(a) as obvious over Beerse. With the cancellation of claims 4-38, the rejections are believed to be moot. Furthermore, new claims 44-78 are not anticipated or obvious over the art cited against claims 4-38 as discussed in detail below. Applicant respectfully requests that the Examiner would allow claims 44-78.

1. The Rejection Under 35 U.S.C. § 112, first paragraph.

The Office Action of January 8, 2008 rejected claim 38 for failing to comply with 35 U.S.C. 112, first paragraph due to the language, "wherein said antimicrobial composition does not contain an antimicrobial active." Applicant has cancelled claim 38 and presented new claims that do not contain the language, "wherein said antimicrobial composition does not contain an antimicrobial active." Therefore, Applicant respectfully requests that this rejection be withdrawn.

2. The Rejection of Claims 4-38 Under 35 U.S.C. § 102(b) as Anticipated by Beerse.

Claims 4-38 stand rejected under 35 U.S.C. § 102(b). These claims have been cancelled. In the interest of clarity, Applicant has presented new claims 44-78 with added limitations. Support for the new claims can be found in claims 3 to 37 as originally filed, and in the specification at Tables 1 and 2.

New independent claim 44 recites an antimicrobial composition comprising, "from about 0.2% to about 70% of an organic acid, which is pyroglutamic acid or gluconic acid[.]" Pyroglutamic acid is identified in the Compositional Examples of Table 1 as the Sodium Salt of Pyrrolidone Carboxylate, another name for the same substance. New independent claim 44 also requires that the calcium ion scavenger is now citric acid, malic acid, succinic acid, or polyacrylic acid.

Beerse does not teach compositions that include both an organic acid which is pyroglutamic acid or gluconic acid, and a calcium ion scavenger, which is citric acid, malic acid, succinic acid, or polyacrylic acid. Beerse discloses compositions that have either citric acid, succinic acid, salicylic acid, lauric acid, lactic acid, palmitic acid, and malic acid, but none of the compositions exemplified in Beerse combine the specific organic acids and calcium ion scavengers required by new claim 44 and the claims depending therefrom. Accordingly, Applicant respectfully submits that claims 44-78 are not anticipated by Beerse.

3. The Rejection of Claims 4-38 Under 35 U.S.C. § 103(a) as Obvious in View Beerse.

Claims 4-38 stand rejected under 35 U.S.C. § 103(a). These claims have been cancelled. In the interest of clarity, Applicant has presented new claims 44-78.

The limitations discussed above further distinguish the claims from the previously cited art, Beerse, since Beerse and the prior art in general do not teach or suggest antimicrobial compositions having both the specific organic acids and calcium ion scavengers of the presented claims.

Second Declaration

With this Amendment, Applicant submits a Second Declaration by Dr. Michael Lynch. The Second Declaration attests to the unexpected results of the invention and states that the unexpected results extend throughout the entire scope of the claims.

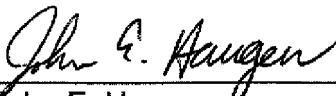
As stated by Dr. Lynch, the antimicrobial efficacy is unexpected, as shown by the Examples of the application. For example, Examples 1-8, 10-12, and 15 from Table 1 each have an organic acid and calcium ion scavenger now required by the claims. Looking particularly at Example 7 and Table 3, Example 7 has greater than log 4 kill in 1 minute versus *E. coli*, *corynebacterium stratus*, and *staphylococcus epidermis* isolate 9. Moreover, Example 7 has at least log 3 kill versus *corynebacterium mucifaciens* axillary isolate 29. Dr. Lynch states that the results of Example 7 are unexpected and representative of the compositions now claimed in claim 44.

Dr. Lynch further states that the unexpected results extend throughout the scope of the claims presented with this amendment. It is submitted that the unexpected results that extend throughout the scope of the claims render the claims non-obvious over the prior art. Accordingly, Applicant respectfully submits that claims 44-78 are not obvious over Beerse.

SUMMARY

Applicant respectfully requests the Examiner grant allowance of this application. The Examiner is invited to contact the undersigned attorneys for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,



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